

PART 2700—EMERGENCY HOMEOWNERS' LOAN PROGRAM

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Subpart A—General

§ 2700.1 Purpose.

This part establishes the Emergency Homeowners' Loan Program, a standby program authorized by the Emergency Homeowners Relief Act of 1975, as amended, to prevent widespread mort-

gage foreclosures and distress sales of homes resulting from a homeowner's substantial reduction in income due to temporary involuntary loss of employment or underemployment resulting from adverse economic conditions or medical condition. Under this program, HUD is authorized to provide relief in the forms of emergency mortgage relief loans, advances of credit, or emergency mortgage relief payments to struggling unemployed or underemployed homeowners to help them avoid foreclosure, provided the homeowner meets certain specific conditions. HUD may provide such relief through approved institutions, including lending institutions, or intermediaries designated by HUD. HUD is also authorized to allow assistance under this program to be administered by a State that has an existing program that is determined by HUD to provide substantially similar assistance to homeowners.

§ 2700.5 Definitions.

For purposes of this part, the following terms are defined as follows:

Act means the Emergency Homeowners' Relief Act, title I of the Emergency Housing Act of 1975 (12 U.S.C. 2701), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, approved July 21, 2010).

Area Median Income (AMI) means the median family income for the metropolitan statistical area (MSA) or statewide nonmetropolitan area, as most recently determined and published by HUD, where the property meeting the eligibility requirements in § 2700.1 is located.

Delinquent mortgage means a first-lien mortgage secured by property meeting the eligibility requirements in § 2700.101, where the homeowner and holder of the delinquent mortgage have certified that circumstances, including delinquent payments of at least 3 months, make it probable there will be a foreclosure and that the homeowner is in need of emergency mortgage relief.

Emergency assistance includes, but is not limited to, an emergency mortgage

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relief loan, advance of credit, or emergency mortgage relief payment provided to an eligible homeowner, as authorized by the Act, and in accordance with the requirements of this part.

Event refers to the involuntary unemployment or underemployment status of the homeowner due to adverse economic conditions or medical condition. See definition of *involuntary unemployment or underemployment due to adverse economic conditions or adverse medical condition*.

Finance charge means the cost of credit as determined in 12 CFR 226.4, a section in Regulation Z of the Federal Reserve System's regulations on Truth in Lending.

Homeowner means an individual with a mortgage on the individual's principal residence, in which the individual resides, and who meets the requirements of § 2700.10 and who is in need of emergency assistance pursuant to this part.

HUD means the Department of Housing and Urban Development.

Income means the cumulative annual adjusted gross income of the homeowner, co-makers, and co-signers on the note secured by the delinquent mortgage and the other mortgagors on the delinquent mortgage.

Involuntary unemployment or underemployment due to adverse economic conditions or adverse medical condition means the status of a homeowner who was working, either as a wage or salaried worker or through self-employment, is currently involuntarily unemployed or underemployed due to adverse economic conditions or medical condition, and is unable to meet the homeowner's monthly mortgage payments.

Lender means a lending institution that provides an emergency mortgage relief loan or advance of credit insured under this part.

Monthly income means one-twelfth of the income, as income is defined in this section.

Monthly mortgage payment means the monthly amount of principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due to be paid under a homeowner's delinquent mortgage.

Mortgage means any mortgage, deed of trust, executor land sales contract, conditional sales contract, or other form of security and the obligation secured by a one- to four-family dwelling that is either real estate or a manufactured home. *Mortgage* includes a mortgage on a condominium unit and a security interest in stock in a housing cooperative.

Mortgagee means a lending institution that is the holder of the delinquent mortgage. The *mortgagee* may be the same entity as the *Lender*.

Secretary means the Secretary of Housing and Urban Development.

Servicer means any entity which services an emergency loan made by HUD under this part.

Servicing institution means any entity that services the delinquent mortgage. The servicing institution may also be the same entity as the *Lender* or *Servicer*.

Term of monthly payments means a period of monthly payments provided under this part not to exceed 24 months. Eligible homeowners may receive assistance for up to 12 months, and in accordance with criteria established by HUD, and such assistance may be extended once for up to 12 additional months, but in no case may monthly payments under this part exceed 24 months. The eligible homeowner may also receive assistance in an amount up to the statutory ceiling of \$50,000, whichever occurs first.

§ 2700.10 Determination of emergency.

(a) The Secretary is authorized to provide emergency assistance under the Emergency Homeowners' Loan Program when:

(1) Funds have been explicitly appropriated or made available for this program and the statute making funding available directs the Secretary to commence making emergency assistance available to homeowners; or

(2) The Secretary has announced that this program has been activated and provides the reasons for activation of this program in a document published in the FEDERAL REGISTER.

(b) If the Emergency Homeowners' Loan Program is activated pursuant to paragraph (a) of this section, HUD

shall publish a document in the FEDERAL REGISTER announcing the activation of the program and inviting one or more categories of eligible institutions, as defined in § 2700.105, to participate in the Emergency Homeowners' Loan Program, to provide such emergency assistance as HUD may designate from among the eligible types of emergency relief provided in § 2700.201, and provide such other information regarding participation in the program, as necessary and appropriate.

Subpart B—Eligibility

§ 2700.101 Eligible properties.

(a) In order to qualify for an emergency assistance under this part, the property of the homeowner seeking assistance must:

(1) Be a single-family residence in a one-to-four unit building, or a condominium or a housing cooperative or a manufactured home;

(2) Be the principal residence of the homeowner, which means it is the residence where the homeowner resides;

(3) Be subject to a delinquent mortgage, as defined in § 2700.5, but not, unless otherwise specified by HUD, subject to liens having a total outstanding principal balance, as specified by HUD;

(4) Have flood insurance, pursuant to the National Flood Insurance Program, in an amount equal to at least the initial principal amount of the emergency loan, if the property is located in an area that has been identified by HUD at least one year before the origination of the emergency loan as an area having special flood hazards; and

(5) Meet such other requirements as may be prescribed by HUD for reasons including, but not limited to, the particular economic circumstances in which emergency assistance is being made available, or the type of emergency assistance being made available.

(b) A property that meets the requirements of paragraph (a) of this section is referred to as the mortgaged property.

§ 2700.105 Eligible institutions.

(a) *Eligible lending institutions.* (1) In order to participate in the Emergency Homeowners' Loan Program as a lender or servicer, a lending institution

must be approved as a mortgagee by the Federal Housing Administration in accordance with the applicable requirements in 24 CFR part 203, and meet such other requirements as may be prescribed by HUD as necessary or appropriate for participation in the Emergency Homeowners' Loan Program.

(2) Approval of a lending institution pursuant to paragraph (a)(1) of this section may be withdrawn at any time by notice from HUD for the following reasons:

(i) The transfer of an insured emergency mortgage relief loan or advance of credit to a nonapproved entity;

(ii) The failure of a lending institution to submit the required annual audit report of its financial condition within 75 days of the close of its fiscal year, or within such other period as may be specified by HUD; or

(iii) The failure of a lending institution to comply with the regulations of this part, or such additional program policies or requirements as specified by HUD. Withdrawal of a lending institution's approval shall not affect the insurance on the emergency mortgage relief loans or advances of credit accepted for insurance.

(3) All approved lending institutions are responsible for servicing of emergency mortgage relief loans and advances of credit in accordance with acceptable mortgage practices of prudent lending institutions and pursuant to 24 CFR part 203.

(b) *Eligible participating organizations.* HUD may delegate authority with respect to the processing of emergency mortgage relief payments as may be appropriate to facilitate the prompt and efficient implementation of assistance under the Emergency Homeowners' Loan Program.

(c) *States with comparable programs.* HUD is authorized to allow funding for the Emergency Homeowners' Loan Program to be administered by a State that has an existing program that is determined by HUD to provide substantially similar assistance to homeowners. After such determination is made, any State that HUD authorizes to administer funding under this program shall not be required to modify its own program to comply with the provisions of this part.

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§ 2700.110 Eligible homeowners.

In order to qualify for an emergency assistance under this part, the homeowner must:

- (a) Have a total pre-Event income that is equal to, or less than, 120 percent of the area median income (AMI).
- (b) Have incurred a substantial reduction of income as evidenced by current monthly income that is at least 15 percent lower than the pre-Event income, as a result of involuntary unemployment or underemployment due to adverse economic or medical conditions, or such other reduction in income as may be specified by HUD.
- (c) Have a delinquent mortgage, as defined in § 2700.5;
- (d) Be financially unable at the time of application for emergency relief under this part to make full monthly mortgage payments;
- (e) Have a reasonable likelihood to resume full monthly mortgage payments, and repay the emergency assistance pursuant to the terms and conditions under which the emergency assistance was made available to the homeowner. The standard for meeting this requirement is debt-to-income (DTI) ratio. The homeowner must have a back-end ratio of below 55 percent (principal, interest, taxes, insurance, revolving and fixed installment debt divided by total monthly income), or such other DTI as may be specified by HUD. For this DTI calculation, income will be measured at the pre-Event level.
- (f) Have not received other emergency assistance pursuant to this part;
- (g) Have been notified that the mortgagee intends to foreclose;
- (h) Produce a certification from the mortgagee in which the homeowner also certifies that circumstances make it probable that the mortgagee will foreclose on the homeowner's delinquent mortgage; and
- (i) Meet such other requirements as may be prescribed by HUD for reasons including, but not limited to, the particular economic circumstances in which emergency assistance is being made available, or the type of emergency assistance being made available.

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Subpart C—Emergency Assistance

§ 2700.201 Types and terms of emergency assistance.

(a) *Types of emergency assistance.* Emergency assistance may be provided to an eligible homeowner in the form of emergency mortgage relief loans and advances of credit, or in the form of emergency mortgage relief payments. In accordance with § 2700.205, the aggregate amount of assistance provided for any eligible homeowner shall not exceed \$50,000 or extend beyond the term of monthly payments, as defined in § 2700.5.

(1) *Emergency mortgage loans and advances.* HUD is authorized, upon such terms and conditions as specified by HUD, to insure financial institutions, which HUD finds to be qualified by experience and facilities and approves as eligible for insurance, against losses that they may sustain as a result of providing emergency mortgage relief loans or advances of credit made under this part.

(2) *Emergency mortgage relief payments.* (i) HUD is authorized to make emergency relief payments under such terms and conditions as HUD may prescribe. Emergency mortgage relief payments may be provided:

(A) As payment of 100 percent of an eligible homeowner's delinquent mortgage arrearages, which may include mortgage principal, interest, insurance, taxes, hazard insurance, ground rent, homeowners' assessment fees or condominium fees, and foreclosure-related legal fees and late payments, in accordance with such terms and conditions as prescribed by HUD; and

(B) As monthly payments due on such delinquent mortgage, for up to a period not to exceed the term of monthly payments, as provided in § 2700.5.

(ii) Such emergency mortgage relief payments may be repayable in the form of a declining balance, non-recourse, zero-interest, subordinate loan secured by the same property securing the delinquent mortgage, for a term of up to 7 years.

(3) *Direct payments to mortgagees.* HUD is authorized to make direct emergency mortgage relief payments to a

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mortgagee that elects not to participate in the Emergency Homeowners' Loan program as an approved mortgagee on behalf of homeowners:

(i) Whose mortgages are held by such mortgagee; and

(ii) Who meet the requirements of §2700.110.

(b) *Terms and conditions of assistance.* Emergency mortgage relief loans and advances of credit made and insured under this part, and emergency mortgage relief payments made under this part, shall be repayable by the homeowner upon such terms and conditions prescribed by HUD, except that:

(1) The rate of interest on any emergency mortgage relief loan or advance of credit insured shall be fixed for the life of the emergency mortgage relief loan or advance of credit and shall not exceed the rate of interest that is generally charged for mortgages on single-family housing insured by the Federal Housing Administration under title II of the National Housing Act at the time such emergency mortgage relief loan or advance of credit is made;

(2) No interest shall be charged on interest that is deferred on an emergency mortgage relief loan or advance of credit made under this part. In establishing rates, terms, and conditions for emergency mortgage relief loans or advances of credit, HUD shall take into account a homeowner's ability to repay such emergency mortgage relief loan or advance of credit;

(3) Any mortgage insurance premium charge or charges for any emergency mortgage relief loan or advance of credit made under this part shall not exceed an amount equivalent to one-half of one percent per annum of the principal obligation of such emergency mortgage relief loan or advance of credit outstanding at any one time;

(4) Unless otherwise specified by HUD for a given fiscal year, the homeowner's contribution to the monthly mortgage payment will be set at 31 percent of monthly income at the time of the application for assistance, but in no instance will such contribution to the monthly mortgage payment be less than \$25 per month;

(5) The homeowner may repay the emergency mortgage relief loan or advance of credit in full, without penalty,

by lump sum or by installment payments at any time before the emergency mortgage relief loan or advance of credit becomes due and payable; and

(6) With respect to the emergency mortgage relief payments repayable in the form of a declining balance, non-recourse, zero-interest, subordinate loan as described §2700.201(a)(2), no payment shall be due by the homeowner during the term of the loan so long as the homeowner remains current in his or her monthly homeowner contribution payments on the delinquent mortgage. If the homeowner meets this requirement, the balance due shall decline by such percentage as may be designated by HUD, until the loan is fully satisfied.

(c) *Termination of emergency assistance.* Emergency assistance provided to a homeowner shall be terminated and the homeowner shall resume full responsibility for meeting the first mortgage payments if any of the following occur:

(1) The maximum loan amount (\$50,000) has been provided to the homeowner;

(2) The homeowner fails to report changes in employment status or income within 15 days of the change;

(3) The homeowner's income increases to 85 percent or more of its pre-Event income level, or such other percentage as may be prescribed by HUD;

(4) The homeowner sells the mortgaged property or refinances the mortgaged property for cash-out;

(5) The homeowner defaults on the monthly homeowner's contribution payment on the delinquent mortgage;

(6) The homeowner has exhausted the full term of monthly payments, as defined in §2700.5; or

(7) Such other event as may be specified by HUD.

(d) *Deferral of commencement of repayment.* HUD may authorize the deferral of the commencement of the repayment of an emergency mortgage relief loan or advance of credit or emergency mortgage relief payments made under this part until one year following the date of the last disbursement of the proceeds of the emergency mortgage relief loan or advance of credit or emergency mortgage relief payments,

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or for such longer period as HUD determines would further the purpose of the Emergency Homeowners' Loan Program.

§ 2700.205 Emergency assistance amount.

(a) Emergency assistance to an eligible homeowner may be made available in an amount up to the amount of the principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due under the homeowner's mortgage and such other costs as may be specified by HUD. The amount of emergency assistance provided to the homeowner shall be an amount that is determined by HUD to be reasonably necessary to supplement such amount as the homeowner is capable of contributing toward the homeowner's delinquent first mortgage payments, except that the aggregate amount of emergency relief provided to any homeowner shall not exceed \$50,000, including any fees allowed under §§ 2700.310(a) and 2700.415(a).

(b) Arrearage payments and monthly assistance payments may be made either with the proceeds of an insured emergency mortgage relief loan or advance of credit or with emergency mortgage relief payments for up to full term of the monthly payments, as defined in § 2700.5.

(c) Unless otherwise authorized by HUD, the lender or servicer shall not approve an emergency mortgage loan or advance of credit when the outstanding balance, including delinquent interest, of the delinquent mortgage when added to the other liens against the mortgaged property, plus the maximum emergency mortgage relief loan that may be advanced to the homeowner under this part, exceeds the value of the mortgaged property. (In determining the value of the property, the lender or servicer may rely upon previously obtained appraisals or other determinations of value of the property and need not obtain a current appraisal.)

§ 2700.210 Finance charges.

The maximum permissible finance charge, exclusive of fees and charges as provided in §§ 2700.310, and 2700.415, which may directly or indirectly be

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paid to or collected by the lender or the servicer in connection with an emergency mortgage relief loan or advance-of-credit transaction, shall not exceed simple interest on the outstanding principal balance at the annual interest rate for FHA-insured home mortgages at such time the emergency mortgage relief loan or advance of credit is originated. Additionally, no points or discounts of any kind may be assessed or collected in connection with an emergency mortgage relief loan or advance-of-credit transaction.

Subpart D—Mortgage Insurance

§ 2700.301 Loan applications.

(a) Lending institutions approved by HUD for participation in the Emergency Homeowners' Loan Program are authorized to accept, process, and approve applications for emergency mortgage relief loans or advances of credit under this part under such terms and conditions as HUD may prescribe.

(b) An approved lender may make an emergency mortgage relief loan or advances of credit on the terms specified in this part if the lender is satisfied that the application meets all of the relevant requirements of this part. The lender shall prepare a note, loan agreement, if any, and mortgage as required by HUD, which the lender shall record against the property securing the delinquent mortgage upon the execution of those documents.

(c) Except as may be otherwise specified by HUD, on the last working day of the month during which an emergency mortgage relief loan or advance of credit is closed, the lender shall submit to HUD an application for an insured emergency mortgage relief loan or advance of credit on such form as prescribed by HUD, signed by the mortgagor and holder of the mortgage and that certifies that:

(1) The lender, homeowner, and property meet the eligibility requirements of this part;

(2) Circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there

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would be a foreclosure of the delinquent mortgage if the emergency mortgage relief were not provided to the homeowner;

(3) The homeowner is in need of such emergency assistance and the mortgagee has indicated to the homeowner its intention to foreclose on the delinquent mortgage; and

(4) The first disbursement of the principal amount of the emergency mortgage relief loan or advance of credit has been paid or credited to the homeowner's account with the servicing institution.

§2700.305 Conditions of insurance.

(a) When the requirements of this part have been met, the lender's mortgage insurance coverage under its mortgage insurance contract will apply to a particular loan as of the date of closing, if the lender has not exceeded the mortgage insurance authority allocation which HUD has given the lender.

(b) From the effective date of the emergency mortgage relief loan or advance of credit until the termination of the insurance with respect to that loan, the lender shall be bound by the provisions of this part as such provisions relate to the emergency mortgage relief loan or advance of credit.

§2700.310 Fees.

(a) The lender may collect from the homeowner during the year following the origination of the emergency mortgage relief loan or advance of credit the following fees or charges in conjunction with providing the emergency mortgage relief loan or advance of credit:

(1) A charge to compensate the lender for expenses incurred in originating and closing the emergency relief loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed such amount as specified by HUD;

(2) Actual amounts charged by State or local governments or government officials for recording fees and recording taxes or other charges incident to making the emergency relief loan or advance of credit;

(3) An amount equal to the annual premium for flood insurance required

by §2700.101(a)(4) (the lender shall pay the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual mortgage insurance premium required under §2700.315.

(b) Subsequent to the year following the origination of the emergency mortgage relief loan or advance of credit and up to the termination of mortgage insurance under §2700.325, the lender may collect from the homeowner the following fees and charges in connection with the emergency relief loan: An amount equal to the mortgage insurance premium required under §2700.315.

§2700.315 Insurance premium.

(a) At such times as may be prescribed by HUD, the participating lender shall pay to HUD a mortgage insurance premium equal to one-half of one percent of the average outstanding balance of the emergency mortgage relief loan or advance of credit, during the previous calendar year, of all emergency mortgage relief loans or advances of credit that the lender held or serviced during that period pursuant to this part.

(b) With respect to the payment provided for in paragraph (a) of this section, the lender shall submit a breakdown of the mortgage insurance premium in the form prescribed by HUD.

(c) If a mortgage securing an emergency mortgage relief loan or advance of credit is sold, assigned, or pledged pursuant to §2700.350, any adjustments of the mortgage insurance premium already paid in connection with a mortgage securing an emergency mortgage relief loan or advance of credit shall be made by and between the lenders, except that any unpaid installments of the mortgage insurance premium shall be paid to HUD by the purchasing lender.

(d) There shall be no refund or abatement of any portion of the insurance premium except when the mortgage insurance premium relates to an emergency mortgage relief loan or advance of credit found to be ineligible. However, no refund shall be made unless a claim is denied by HUD or the ineligibility is reported by the lender promptly upon discovery and an application

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for refund is made. In no event shall charges be refunded when the application for refund is not made until after the emergency mortgage relief loan or advance of credit is paid in full.

§ 2700.320 Servicing.

Servicing functions for the emergency mortgage relief loan or advance of credit during the period that the emergency loan or advance is insured shall be performed by the lender or the servicing institution acting for the lender. The lender is responsible for proper servicing, even though the actual servicing is not performed by the lender.

§ 2700.325 Termination of mortgage insurance.

The mortgage insurance coverage and the insured lender's obligation to remit mortgage insurance premiums to HUD with respect to an emergency mortgage relief loan or advance of credit shall be terminated upon whichever of the following first occurs:

(a) The emergency mortgage relief loan or advance of credit is paid in full;

(b) The lender acquires the mortgaged property securing the emergency mortgage relief loan or advance of credit and notifies HUD that no claim for insurance benefits has been or will be made;

(c) The homeowner and the lender jointly request termination; or

(d) The lender files an insurance claim pursuant to § 2700.335.

§ 2700.330 Default.

(a) If the homeowner fails to make a scheduled payment or perform any other obligation required for the type of emergency assistance provided under this part, the homeowner shall be deemed to be in default.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the mortgage securing the emergency mortgage relief loan or advance of credit, if the delinquency remains uncorrected;

(2) The date the property securing the emergency mortgage relief loan or advance of credit is sold before full repayment of the emergency loan or advance of credit; and

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(3) The date a lien superior to that securing the emergency mortgage relief loan or advance of credit is foreclosed.

(c) If, after default and prior to the foreclosure of the mortgage securing the emergency mortgage relief loan or advance of credit, the homeowner cures the default, the emergency loan or advance of credit shall be treated as if a default had not occurred, provided the homeowner pays the lender for any expenses the lender incurred in connection with the lender's attempt to collect on the emergency mortgage relief loan or advance of credit.

§ 2700.335 Claims.

(a) Claims for mortgage insurance for reimbursement for loss on an emergency mortgage relief loan or advance of credit shall be made in such form and provide such information as specified by HUD.

(b) Claims may be filed upon the homeowner's default on the emergency mortgage relief loan or advance of credit.

(c) When the homeowner defaults on the emergency mortgage relief loan or advance of credit, the lender may elect to:

(1) Proceed against the mortgage securing the emergency mortgage relief loan or advance of credit or attempt to collect on the note and then make a claim under its insurance contract if there is any net loss, or

(2) Make a claim under its mortgage insurance contract without proceeding against the security or the note.

(d) Except as may be otherwise specified by HUD, mortgage insurance claims shall be filed on the last working day of the month, no later than 90 days after the date of default, unless the lender proceeds against the mortgage securing the emergency relief loan or advance of credit, in which case the filing shall be no later than one year after the date of default, or such other time period as approved by HUD. If at the time of default or at any time subsequent to the default, a person primarily or secondarily liable for the repayment of a loan is a person in "military service", as such term is defined in the Servicemembers Civil Relief Act

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of 2003 (Pub. L. 108-189, approved December 19, 2003) (formerly known as Soldier's and Sailor's Civil Relief Act of 1940) (50 U.S.C. app. 501-594), the lender shall refrain from instituting foreclosure proceedings during the period in which the servicemember is in military service and 3 months thereafter and that period shall be excluded in computing the time within which a claim for insurance benefits under this subpart may be made.

(e) An insured lender will be reimbursed for its losses on emergency mortgage relief loans and advances of credit made in accordance with this part, in an amount equal to 90 percent of the sum of the following:

(1) The unpaid principal amount of the emergency mortgage relief loan or advance of credit less the amount recovered;

(2) The uncollected interest earned up to the date of claim;

(3) Uncollected court costs, including fees paid for issuing, serving, and filing summonses;

(4) Attorney's fees actually paid, not exceeding the lesser of:

(i) 25 percent of the amount collected by the attorney on the defaulted note, or

(ii) 15 percent of the balance due on the note; and

(5) Expenses actually incurred in recording assignments of mortgages to the United States of America, up to such amount as specified by HUD.

(f) The note and any mortgage held or judgment taken by the claimant must be assigned in its entirety and if any claim has been filed in bankruptcy, insolvency, or probate proceedings, such claim shall be likewise assigned to the United States of America. The assignment shall be in the form approved by HUD.

§ 2700.340 Payment of insurance benefits.

Upon receipt of a claim for insurance benefits that meets the requirements of § 2700.335 and the other provisions of this part, HUD shall make a payment of insurance benefits in cash to the claimant in an amount equal to the amount specified in § 2700.335(e).

§ 2700.345 Administrative reports and examinations.

At any time, HUD may call upon an insured lender for such reports as are deemed to be necessary in connection with the regulations of this part and may inspect the books or accounts of the lender as they pertain to the emergency mortgage relief loans or advances of credit that are insured pursuant to this subpart.

§ 2700.350 Sale, assignment, and pledge of insured loan.

(a) No lender may sell or otherwise dispose of any insured emergency mortgage relief loan or advance of credit except pursuant to this section.

(b) An insured emergency mortgage relief loan or advance of credit may be sold to a lending institution eligible under § 2700.105. Upon such sale, both the seller and the buyer shall notify HUD within 30 days of the date of sale.

(c) When an insured emergency mortgage relief loan or advance of credit is sold to another lending institution eligible under § 2700.105, the buyer shall thereupon succeed to all the rights and become bound by all the obligations of the seller under the contract of insurance under this part, and the seller shall be released from its obligations under the contract of insurance.

(d) An assignment, pledge, or transfer of an insured emergency mortgage relief loan or advance of credit not constituting an actual transfer of legal title may be made by the lender to another eligible lending institution, subject to the following conditions:

(1) The assignor, pledgor, or transferor shall remain the lender for purposes of the contract of insurance under this part.

(2) HUD shall have no obligation to recognize or deal with any party other than that lender with respect to the rights, benefits, and obligations of the lender under the contract of insurance. Notice to or approval of HUD is not required in connection with assignments, pledges, or transfers pursuant to this subpart.

Subpart E—Direct Loans

§ 2700.401 Participation by lending institutions.

A lending institution eligible under § 2700.105 is authorized, except as may be otherwise prescribed by HUD, to accept, process, and approve applications for direct loans under this subpart in the form specified. That authority includes making determinations relating to the eligibility of the direct loan, homeowner, and property, pursuant to the provisions of this part. Direct loans, however, may be made pursuant to this part only when the investor cannot make an emergency loan under subpart D of this part for good cause, as determined by HUD.

§ 2700.405 Application for loans.

(a) The agreement to process an application for a direct loan shall constitute an acceptance of the lending institution of the responsibility to act as the servicer of HUD with respect to that particular application. The servicer shall make a loan on behalf of HUD on the terms specified in subpart C of this part if the lending institution is satisfied that the application meets all of the requirements of this part.

(b) The servicer shall prepare a note, loan agreement, if any, and mortgage in the form specified in § 2700.201. The servicer shall record the mortgage upon the closing of the loan. The servicer shall make the first advance of the loan, as provided for in § 2700.201(d), using its own funds.

(c) On the last working day of the month during which the loan is closed, the servicer shall submit to HUD a copy of the application signed by the agent and the homeowner certifying that: The agent, homeowner, and property qualify under subpart B of this part; circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; the homeowner is in need of such relief; the investor has indicated to the homeowner its intention to foreclose; and the first advance of the emergency loan has been paid or credited to the home-

owner's account with the servicing institution.

§ 2700.410 Transmittal of funds.

(a) When the requirements of this part have been met, HUD will transmit to the servicer, pursuant to the monthly accounting prescribed in § 2700.420, the emergency loan proceeds, as long as the agent has not exceeded the lending authority allocation that HUD has given the servicer pursuant to § 2700.10(c).

(b) When the investor is the servicer, the transmittal of funds under this section shall be conditioned upon the investor's agreement, for a period up to one month after the last advance under the emergency mortgage relief loan, to refrain from instituting foreclosure proceedings against the homeowner, as long as the amount delinquent at the time of the origination of the emergency mortgage relief loan, excluding interest thereon, does not increase, unless HUD's prior approval is obtained.

(c) From the processing of the application until the satisfaction of the debt or the final accounting pursuant to § 2700.435, the servicer shall be bound by the provisions of this part with respect to a particular direct loan.

§ 2700.415 Fees.

(a) The servicer may collect from the homeowner during the year following the origination of the emergency loan the following fees or charges in conjunction with providing the emergency loan:

(1) A charge to compensate the servicer for expenses incurred in originating and closing the emergency mortgage relief loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed such amount as may be specified by HUD;

(2) Actual amounts charged by State or local governments or government officials for recording fees and recording taxes or other charges incident to making the emergency loan;

(3) An amount equal to the annual premium for flood insurance required by § 2700.101(c) (the servicer shall pay

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the homeowner's flood insurance premium for that year to the extent it collects such an amount); and

(4) An amount equal to the annual premium required under § 2700.420(d).

(b) Subsequent to the year following the origination of the emergency mortgage relief loan and up to the final accounting on the emergency mortgage relief loan under § 2700.435, the servicer may collect from the homeowner the fees and charges as provided in this section.

§ 2700.420 Servicing.

(a) Servicing functions during the period that the emergency mortgage relief loan is outstanding shall be performed by the servicer.

(b) On the same day each month while the servicer is servicing emergency mortgage relief loans for HUD, the servicer shall submit a monthly accounting, in the form prescribed by HUD, for all of the emergency mortgage relief loans that it services. The accounting shall list the amount of funds that it advanced under emergency mortgage relief loans during the previous calendar month. In addition, the accounting shall list the amount paid to the servicer under the emergency mortgage relief loans serviced by the servicer during the previous calendar month.

(c) If, pursuant to the monthly accounting, the amount HUD owes the servicer exceeds the amount the servicer owes HUD, HUD shall remit the difference to the servicer, as long as HUD finds the accounting in order. If, pursuant to the monthly accounting, the amount the servicer owes HUD exceeds the amount HUD owes the servicer, the servicer shall remit the difference when the servicer submits the monthly accounting to HUD.

(d) At such times as may be prescribed by HUD, the servicer, in addition to making its monthly accounting, shall pay to HUD a premium equal to one-half of one percent of the average outstanding balance during the previous calendar year of all the emergency mortgage relief loans it serviced during that period. That payment shall be accompanied by a breakdown of the premium in the form prescribed by HUD.

§ 2700.425 Default.

(a) If the homeowner fails to make any payment or to perform any other obligation under the mortgage securing the emergency mortgage relief loan, the homeowner shall be deemed to be delinquent on such loan.

(b) For purposes of this subpart, the date of default shall be the earliest of:

(1) 30 days after the first day the homeowner is delinquent on the emergency mortgage relief loan, if the delinquency remains uncorrected;

(2) The date the mortgaged property is sold before full repayment of the emergency mortgage relief loan; and

(3) The date a lien superior to that securing the emergency mortgage relief loan is foreclosed.

(c) If, after default and prior to the foreclosure of the mortgage securing the emergency mortgage relief loan, the homeowner cures the default, the emergency mortgage relief loan shall be treated as if the default had not occurred, provided the homeowner pays the servicer for any expenses the servicer incurred in connection with the servicer's attempt to collect on the loan.

§ 2700.430 Collection.

(a) If a homeowner defaults on an emergency mortgage loan, the servicer shall elect:

(1) To wait while the Department of Justice proceeds against the mortgage securing the emergency mortgage relief loan or attempts to collect on the note, and then to make an accounting and payment to HUD, as provided in § 2700.435, or

(2) To make an accounting and payment, as provided in § 2700.435, without waiting while the Department of Justice proceeds against the mortgage or note.

(b) If pursuant to paragraph (a) of this section, the servicer elects to make an accounting without waiting while the Department of Justice proceeds against the mortgage or note, the servicer at the time of that accounting will have the option of purchasing the emergency loan and underlying mortgage for a price equal to 0.5 times the unpaid principal balance.

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§ 2700.435 Payment to HUD.

(a) Before the expiration of the period of 90 days after the date of default, or such other time period as HUD approves, the servicer shall transmit to HUD on the last working day of the month the complete credit and collection file pertaining to the emergency mortgage relief loan.

(b) At the same time the servicer makes the transmittal as provided in paragraph (a) of this section, it shall share the loss on the emergency mortgage relief loan by making a payment to HUD in an amount equal to 10 percent of the sum of:

(1) The unpaid principal amount of the emergency mortgage relief loan, less the amount recovered; and

(2) The uncollected interest earned up to the date of the final accounting. Accompanying that payment shall be a final accounting of the emergency mortgage relief loan, in the form specified by HUD, and the note and mortgage executed in connection with the emergency mortgage relief loan.

(c) Notwithstanding the provisions of paragraph (b) of this section, in the event that the aggregate loss borne by HUD reaches such percent, as specified in the FEDERAL REGISTER document activating the Emergency Homeowners' Loan Program, of the aggregate amount advanced by the servicer on behalf of HUD under this subpart, the servicer shall bear the burden of any

loss in excess of that such percent by making an appropriate payment to HUD within the time period specified in paragraph (a) of this section.

(d) If at the time of default or at any time subsequent to default, a person primarily or secondarily liable for the repayment of an emergency loan is a person in "military service", as such term is defined in the Servicemembers Civil Relief Act of 2003 (Pub. L. 108-189, approved December 19, 2003) (formerly known as Soldier's and Sailor's Civil Relief Act of 1940) (50 U.S.C. app. 501-594), the period the servicemember is in military service and 3 months thereafter and that period shall be excluded in computing the time within which an accounting and payment are to be made pursuant to paragraph (a) of this section.

§ 2700.440 Administrative report and examinations.

HUD may at any time call for a report from any servicer on the delinquency status of the emergency mortgage relief loans serviced by the servicer on behalf of HUD or call for such reports as may be deemed to be necessary in connection with the provisions of this part, or HUD may inspect the books or accounts of the servicer as they pertain to those emergency mortgage relief loans.

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